

REMARKS

Restriction Requirement

The Office Action has set forth a restriction requirement. In particular, the Office Action has set forth the following groups of claims:

- (I) claims 42-57, drawn to a method for detecting a microorganism relevant to brewing in a sample, and
- (II) claims 58-63, drawn to nucleic acid probes/primers or combinations of molecules.

Applicants elect, with traverse, the claims of group I (i.e., claims 42-57), drawn to a method for detecting a microorganism relevant to brewing in a sample. The Office Action further requires election of at least two primers and a single set of probes for the detection of a specific microorganism. Applicants elect, with traverse, SEQ ID NOs 1, 21, 73, and 74, which can be used in any combination as primers and/or probes for the detection of *Lactobacillus brevis* or *Pediococcus*. Reconsideration of the requirement for restriction is respectfully requested.

Discussion of the Restriction Requirement

The subject application is a U.S. national stage application based on the international application PCT/EP00/08808. The Office Action alleges that the inventions defined by the claims of Groups I and II do not relate to a single general inventive concept under PCT Rule 13.2 because they lack the same "special technical features." Under PCT Rule 13.2, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. PCT Rule 13.2 defines the term "special technical features" as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art (see M.P.E.P. § 1893.03(d)).

The claims of Groups I and II are linked so as to form a single general inventive concept. In other words, the claims of Groups I and II share a common special technical feature, which defines the contribution that each claim makes over the prior art. In this respect, the method recited in the claims of Group I requires the nucleic acid sequences recited in the claims of Group II. Given the special technical feature common to the claims of Groups I and II, a search for prior art with respect to either Group I or Group II would likely uncover references that would be considered by the Examiner during the examination of the other group.

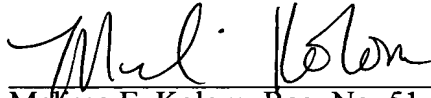
In re Appln. of Fandke et al.
Application No. 10/088,666

In view of the foregoing, Applicants request that the requirement for restriction be withdrawn and that the claims of Groups I and II be examined together.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,



Melissa E. Kolom, Reg. No. 51,860
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

Date: September 7, 2004